

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

LEA MÁRQUEZ PETERSON - Chairwoman
SANDRA D. KENNEDY
JUSTIN OLSON
ANNA TOVAR
JIM O'CONNOR

In the matter of:
Cornerstone Wealth Management, LLC, an
Arizona limited liability company,
Nathaniel S. Barnhart (CRD # 1898299) and
Lisa Renee Wilson Barnhart, husband and
wife,
AE Wealth Management, LLC (CRD #
282580), a Kansas limited liability company,
David James Callanan (CRD # 4237166), a
resident of Kansas,
Christopher Spence Cox (CRD # 5639015)
and Beth Cox, husband and wife,
William Andrew Smith (CRD # 5638821) and
Kimberly Ann Smith, husband and wife,
Smith & Cox, LLC (CRD # 149088) an
Arizona limited liability company,
Respondents.

DOCKET NO. S-21104A-20-0103

AMENDED NOTICE OF OPPORTUNITY
FOR HEARING

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING
EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents Cornerstone Wealth Management, LLC, Nathaniel S. Barnhart (CRD # 1898299), AE Wealth Management, LLC (CRD # 282580), Christopher Spence Cox (CRD # 5639015), William Andrew Smith (CRD # 5638821) and Smith & Cox, LLC (CRD # 149088) have engaged in acts, practices, and transactions that constitute violations of the Securities

1 Act of Arizona, A.R.S. § 44-1801 *et seq.* (“Securities Act”) and the Arizona Investment Management
2 Act, A.R.S. § 44-3101 *et seq.* (“IM Act”).

3 The Division also alleges that Respondents Nathaniel S. Barnhart, Christopher Spence Cox
4 and William Andrew Smith are or were persons controlling Cornerstone Wealth Management, LLC
5 within the meaning of A.R.S. § 44-1999(B), so that those individuals are jointly and severally liable
6 under A.R.S. § 44-1999(B) to the same extent as Cornerstone Wealth Management, LLC for its
7 violations of the antifraud provisions of the Securities Act.

8 The Division also alleges that Respondents AE Wealth Management, LLC, Christopher
9 Spence Cox and William Andrew Smith are or were persons controlling Smith & Cox, LLC within
10 the meaning of A.R.S. § 44-1999(B), so that those Respondents are jointly and severally liable under
11 A.R.S. § 44-1999(B) to the same extent as Smith & Cox, LLC for its violations of the antifraud
12 provisions of the Securities Act.

13 The Division also alleges that David James Callanan (CRD # 4237166) is a person
14 controlling AE Wealth Management, LLC within the meaning of A.R.S. § 44-1999(B), so that he is
15 jointly and severally liable under A.R.S. § 44-1999(B) to the same extent as AE Wealth Management,
16 LLC for its violations of the antifraud provisions of the Securities Act.

17 I.

18 JURISDICTION

19 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
20 Arizona Constitution, the Securities Act and the IM Act.

21 II.

22 RESPONDENTS

23 2. Respondent Cornerstone Wealth Management, LLC (“Cornerstone”) was organized
24 on July 3, 2019, as a member-managed Arizona limited liability company.

25 3. Respondent Nathaniel S. Barnhart (“Barnhart” or “Nate Barnhart”) (CRD #
26 1898299) was licensed by the Commission as an investment adviser representative for AE Wealth

1 Management, LLC from October 11, 2019, until September 30, 2020. Prior to October 11, 2019,
2 Barnhart was licensed by the Commission as an investment adviser representative for Secure
3 Investment Management, LLC, and as a salesman for several securities dealers.

4 4. Barnhart is the sole member of Cornerstone according to Cornerstone's Articles of
5 Organization on file with the Commission.

6 5. Respondent AE Wealth Management, LLC ("AE Wealth" or "AEWM") (CRD #
7 282580) is a Kansas limited liability company with its principal place of business in Topeka, Kansas.
8 On February 17, 2016, AE Wealth became registered as an investment adviser with the United States
9 Securities and Exchange Commission. AE Wealth subsequently made a notice filing with the
10 Commission under A.R.S. § 44-3153(E) to transact business in Arizona as a federal covered
11 investment adviser.

12 6. Since March 30, 2018, Respondent David James Callanan ("Callanan") (CRD #
13 4237166) has been the Chief Executive Officer ("CEO") of AE Wealth. From February 17, 2016,
14 until March 30, 2018, when he became the CEO, Callanan was the President of AE Wealth. Callanan
15 is a resident of Kansas.

16 7. From October 24, 1997, until October 1, 2002, Respondent Christopher Spence Cox
17 ("Cox" or "Chris Cox") (CRD # 5639015) was a licensed securities salesman in South Dakota,
18 Nebraska, Colorado, Minnesota and Iowa. Since September 21, 2007, Cox has been a licensed
19 Arizona insurance producer (License #718551).

20 8. From July 13, 2009, until October 2, 2020, Respondent William Andrew Smith
21 ("Smith" or "Andy Smith") (CRD # 5638821) was licensed by the Commission as an investment
22 adviser representative. On October 2, 2020, in Decision No. 77747, the Commission revoked Smith's
23 license.

24 9. Respondent Smith & Cox, LLC ("Smith & Cox") (CRD # 149088) was organized on
25 January 15, 2009, as an Arizona limited liability company. From July 13, 2009, until October 2, 2020,
26

1 Smith & Cox was licensed by the Commission as an investment adviser. On October 2, 2020, in
2 Decision No. 77747, the Commission revoked Smith & Cox's license.

3 10. Since at least January 29, 2009, Andy Smith and Chris Cox have been the managing
4 members of Smith & Cox, and Andy Smith has been Smith & Cox's Chief Compliance Officer.

5 11. Cornerstone, Barnhart, AE Wealth, Callanan, Cox, Smith and Smith & Cox may be
6 referred to collectively as "Respondents."

7 12. Lisa Renee Wilson Barnhart was at all relevant times the spouse of Nate Barnhart.

8 13. Beth Cox was at all relevant times the spouse of Chris Cox.

9 14. Kimberly Ann Smith was at all relevant times the spouse of Andy Smith.

10 15. Lisa Renee Wilson Barnhart, Beth Cox and Kimberly Ann Smith may be referred
11 to collectively as "Respondent Spouses." Respondent Spouses are joined in this action under A.R.S.
12 § 44-2031(C).

13 16. At all times relevant, Nate Barnhart, Chris Cox and Andy Smith were acting for their
14 own benefit and for the benefit or in furtherance of their and their respective Respondent Spouses'
15 marital communities.

16 III.

17 FACTS

18 A. Overview

19 17. As investment advisory firms and representatives of those firms, Respondents were
20 fiduciaries of their joint clients, the overwhelming majority of whom are senior citizens and retirees.
21 *See, e.g., S.E.C. v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 191 (1963) ("The Investment
22 Advisers Act of 1940 thus reflects a congressional recognition of the delicate fiduciary nature of an
23 investment advisory relationship....") (internal quotation omitted).

24 18. As fiduciaries, Respondents owed their clients "an affirmative duty of utmost good
25 faith, and full and fair disclosure of all material facts...." *Capital Gains Research*, 375 U.S. at 194
26 (internal quotation omitted).

1 19. Respondents breached their fiduciary duties by failing to disclose and concealing,
2 through misleading half-truths, facts that raised serious questions about their competence, judgment
3 and integrity, and thus their fitness to serve as investment advisers. These facts included:

4 a) Smith still has an unpaid judgment from 2006 against him by an investor for
5 selling her an unregistered security.

6 b) Smith is the subject of three unsatisfied liens the Internal Revenue Service
7 recorded against him for over \$178,000 in unpaid taxes from 2007, 2008, 2009 and 2014.

8 c) In March 2018, the Division filed an enforcement action against Smith, Cox
9 and Smith & Cox for securities fraud, investment advisory fraud, and revocation of Smith's and Smith
10 & Cox investment adviser licenses. (On October 2, 2020, the Commission found Smith, Cox and
11 Smith & Cox liable for these violations, ordered them to pay \$2.57 million in restitution and \$252,000
12 in administrative penalties, and revoked Smith's and Smith & Cox investment adviser licenses.)

13 d) In September 2019, AE Wealth learned of the then-pending enforcement
14 action, and that Smith, Cox and Smith & Cox had concealed it from AE Wealth in material breach of
15 their agreement as co-investment advisers.

16 20. Instead of terminating its relationship with Smith, Cox and Smith & Cox and
17 disclosing these material facts to their joint clients, AE Wealth deceived the clients and allowed Smith
18 and Smith & Cox to continue to act for eight (8) more months as the clients' investment advisers. At
19 AE Wealth's direction, Barnhart, Smith and Cox told investors misleading half-truths that Smith &
20 Cox was "rebranding" itself to Cornerstone and Barnhart was joining the firm to become the clients'
21 investment adviser representative because the firm was growing, while failing to disclose that Smith
22 and Smith & Cox expected the Commission to revoke their licenses and that AE Wealth had decided
23 to terminate its relationship with Smith and Smith & Cox because of their dishonesty in concealing
24 this information from AE Wealth.

25 21. By concealing these material facts from their clients, Respondents committed
26 securities fraud and investment advisory fraud in violation of A.R.S. §§ 44-1991 and 44-3241.

B. Smith's 2006 Unpaid \$93,455 Judgment and the I.R.S.'s 2013, 2015, 2016 and 2017 Liens Against Smith for Unpaid Taxes.

22. Prior to moving to Arizona in July 2007, Smith was an insurance salesman in Indiana.

23. On August 15, 2006, the Indiana Commissioner of Insurance initiated an investigation of Smith for his sale of universal leases as unregistered securities.

24. On November 30, 2006, an investor was awarded a \$93,455 Judgment against Smith for selling her a universal lease as an unregistered security.

25. Smith has never fully paid and satisfied the \$93,455 Judgment, which is referred to herein as "the 2006 Unpaid Judgment."

26. On August 21, 2008, the Indiana Commissioner of Insurance disciplined Smith for selling universal leases as unregistered securities.

27. On January 15, 2009, Andy Smith and Chris Cox organized Smith & Cox, LLC with themselves as the two managing-members.

28. On January 29, 2009, Andy Smith, on behalf of Smith & Cox, filed with the Division a Form ADV uniform application for Smith & Cox to become an Arizona-licensed investment adviser, and a Form U4 uniform application for Andy Smith to become an Arizona-licensed investment adviser representative.

29. Form ADV asks for information about the firm and its advisory affiliates, who include the firm's officers, partners or directors, and all persons who directly or indirectly control the firm.

30. As the managing member of Smith & Cox, LLC and its chief compliance officer, Andy Smith has at all times been an advisory affiliate of Smith & Cox, LLC.

31. Form ADV states: "We use this information to determine whether to grant your application for registration, to decide whether to revoke your registration or to place limitations on your activities as an investment adviser...."

32. Form U4 is filed with the Division by an applicant seeking to become licensed as an investment adviser representative. The Division reviews Form U4 in deciding whether to grant an

1 applicant's license and whether to seek to suspend or revoke an investment adviser representative's
2 license.

3 33. The Form U4 Andy Smith and Smith & Cox filed on January 29, 2009, asked: "Do
4 you have any unsatisfied judgments or liens against you?" Andy Smith and Smith & Cox answered
5 "No."

6 34. That answer was false, inaccurate and misleading because Andy Smith has never
7 satisfied the 2006 \$93,455 Judgment he owes to an investor in Indiana.

8 35. The Form U4 filed on January 29, 2009, required Andy Smith and Smith & Cox to
9 "agree to update this form by causing an amendment to be filed on a timely basis whenever changes
10 occur to answers previously reported." Similarly, the Form ADV Andy Smith and Smith & Cox
11 filed that date directed: "You must keep this form updated by filing periodic amendments."

12 36. On July 13, 2009, the Division approved Smith & Cox's and Andy Smith's
13 applications, and they became licensed as an investment adviser ("IA") and an investment adviser
14 representative ("IAR"), respectively.

15 37. Pursuant to the IM Act, to retain their licenses, Andy Smith and Smith & Cox were
16 required to file "A supplemental statement showing any material changes in the facts contained in the
17 original application for licensure as supplemented or amended as the changes occur or within thirty
18 days after the change." A.R.S. § 44-3159(A)(1).

19 38. On June 23, 2009, and again on July 25, 2011, Andy Smith, on behalf of Smith &
20 Cox filed Amendments to his Form U4. The U4 Amendments both asked: "Do you have any
21 unsatisfied judgments or liens against you?" Each time, Andy Smith and Smith & Cox answered
22 "No." Those answers were false, inaccurate and misleading because Andy Smith has never satisfied
23 the 2006 Unpaid Judgment he owes to an investor.

24 39. Andy Smith and Smith & Cox have never amended Smith's Form U4 to disclose the
25 2006 Unpaid Judgment, which A.R.S. § 44-3159 required them to do.
26

40. On June 25, 2013, the Internal Review Service (“I.R.S.”) recorded a Notice of Federal Tax Lien in Pima County, Arizona against Andy Smith for \$125,079 in unpaid income taxes from 2007 and 2008 (“the 2013 I.R.S. Lien”).

41. Smith has never satisfied the 2013 I.R.S. Lien.

42. On September 22, 2015, the I.R.S. recorded another lien against Andy Smith for \$4,766 in unpaid income taxes from 2013 (“the 2015 I.R.S. Lien”).

43. On August 2, 2016, the I.R.S. recorded another lien against Andy Smith for \$9,594 in unpaid income taxes from 2014 (“the 2016 I.R.S. Lien”). Smith has never satisfied that \$9,594 lien.

44. On August 29, 2017, the I.R.S. recorded a release of the 2015 I.R.S. Lien against Andy Smith for \$4,766.

45. Also on August 29, 2017, the I.R.S. recorded another lien against Andy Smith for \$43,602 in unpaid income taxes from 2009 (“the 2017 I.R.S. Lien”). Smith has never satisfied that \$43,602 lien.

46. The I.R.S.’s 2013, 2016 and 2017 Liens against Smith collectively total \$178,275.

C. September to November 2016: AE Wealth and Smith & Cox Agree to Become Co-Investment Advisers.

47. In September 2016, AE Wealth and Smith & Cox began taking steps to affiliate with each other in order to serve as co-investment advisers for Smith & Cox’s clients.

48. On September 16, 2016, Andy Smith completed an AE Wealth “Independent Registered Investment Adviser Onboarding Questionnaire” regarding Smith & Cox. Smith stated that Smith & Cox served as an investment adviser for approximately 100 households and had assets under management of \$25 million.

49. On September 26, 2016, AE Wealth engaged a third-party contractor to conduct a background check on Andy Smith. On September 29, 2016, AE Wealth received the background report.

1 50. The background check report showed Smith's 2013 I.R.S. Lien for \$125,079 and his
2 2015 I.R.S. Lien for \$4,766. The background check report did not show his 2016 I.R.S. Lien for
3 \$9,594.

4 51. On October 10, 2016, AE Wealth's Chief Compliance Officer at that time, "C.C.",
5 signed a document titled "William 'Andy' Smith Fact Sheet."

6 52. Next to the category for "Liens," the Fact Sheet stated, "None known of at this time."
7 That statement was incorrect because Smith was then the subject of the 2013, 2015 and 2016 I.R.S.
8 Liens, and AE Wealth's background check report showed the 2013 and 2015 I.R.S. Liens against
9 Smith totaling \$129,845.

10 53. The Fact Sheet stated it was "Reviewed and Approved by ["J.H."] and [C.C.] on 10-
11 10-18." J.H. was AE Wealth's Chief Operating Officer and, as alleged above, C.C. was then AE
12 Wealth's Chief Compliance Officer.

13 54. On November 8, 2016, AE Wealth and Smith & Cox entered an Independent RIA Co-
14 Advisory Agreement ("Co-Advisory Agreement") under which the two firms agreed to provide AE
15 Wealth's asset management and financial planning services to Smith & Cox's clients.

16 55. The Co-Advisory Agreement gave AE Wealth "discretionary authority, pursuant to
17 the terms set forth in the client agreement, to buy and sell securities on behalf of any client of [Smith
18 & Cox] who participates in AEWM's asset management services without the prior consent of the
19 client."

20 56. The Co-Advisory Agreement gave AE Wealth several powers to control the activities
21 of Smith & Cox. For instance, the Co-Advisory Agreement: (i) specified certain documents that
22 Smith & Cox was required to provide to their joint clients; (ii) required Smith & Cox to "make and
23 keep such books and records as may be prescribed by AEWM from time to time" and make those
24 books and records available to AEWM for inspection and copying; (iii) required Smith & Cox to
25 "use systems aligning with AEWM's operations systems to collect, input, and house all information
26 about clients"; (iv) required Smith & Cox to "submit, establish and track all new investment advisory

1 client accounts in accordance with AEW's Systems and established procedures;" and (v) provided
2 that AE Wealth could "impose at its discretion limits or restrictions regarding the investment
3 advisory services" that Smith & Cox could offer through AE Wealth.

4 57. The Co-Advisory Agreement further required: "At all times while acting in the
5 capacity of a properly registered investment advisor, [Smith & Cox] will act in a manner consistent
6 with its contractual and fiduciary responsibilities.... [Smith & Cox will] not make untrue statements
7 or misrepresentations, or omit any material facts, concerning Services to be offered or provided."

8 58. The Co-Advisory Agreement required Smith & Cox and Andy Smith to comply with
9 all the "fiduciary and ethical conduct requirements of the SEC and the various states in which [Smith
10 & Cox and Andy Smith] conduct business," which included Arizona.

11 59. Section 4(f) of the Co-Advisory Agreement required Smith & Cox to "immediately
12 in writing" inform AE Wealth if Smith & Cox or Andy Smith became the subject of any investigation
13 by any state government agency, were put on notice of any violation or other legal action concerning
14 Smith & Cox or Andy Smith, became aware that their licenses to act as an investment adviser or
15 investment adviser representative might be revoked, became subject to a federal tax lien, or became
16 involved in any other material event that might be a required disclosure on Smith & Cox's Form
17 ADV or Andy Smith's Form U4.

18 60. Section 4(q) provided that Smith & Cox's "strict compliance with the terms and
19 provisions of this Agreement is a condition to [Smith & Cox's] continued engagement with
20 AEW...."

21 61. The Co-Advisory Agreement enabled AE Wealth to terminate Smith & Cox's
22 affiliation with it upon ten days' written notice if Smith & Cox materially breached AE Wealth's
23 written policies and procedures or Smith & Cox's obligations under the Co-Advisory Agreement.

24

25

26

1 **D. January 2017 to May 2020: AE Wealth and Smith & Cox Serve as Co-Fiduciaries**
2 **for Their Joint Investment Advisory Clients.**

3 62. In January 2017, AE Wealth and Smith & Cox began executing AE Wealth Managed
4 Account Co-Advisory Client Agreements (“Co-Advisory Client Agreements”) with investors to
5 provide investment advisory services.

6 63. Under the Co-Advisory Client Agreements, the investor-clients opened a
7 discretionary advisory account (the “Account”) with AE Wealth, and appointed AE Wealth and
8 Smith & Cox as the co-investment advisers of record on the Account.

9 64. The Co-Advisory Client Agreements provided the following structure for buying,
10 selling and holding securities in the investor-client’s Account:

11 a) Smith & Cox would provide recommendations for the investor-client “to
12 utilize specific third-party manager(s) (individually ‘Model Manager’ and collectively ‘Model
13 Managers’) to provide models and trade signals for managing the Account or a portion of the assets
14 of the Account.” Smith & Cox could only recommend Model Managers approved by AE Wealth.
15 AE Wealth was to “monitor the performance of the Model Manager with respect to the Model
16 Manager’s models and/or trade signals....”

17 b) All trading for the Account would be conducted by a third-party referred to as
18 “the platform provider,” who would implement the Model Manager’s model for the Account by
19 acquiring the securities that were represented in the selected model portfolios of the Model Manager.
20 The investor-client granted the platform provider “discretionary authority (based upon the selected
21 Model Manager’s(s’) designated portfolio model(s) and/or trade signals without first consulting with
22 Client) to make all decisions to buy, sell or hold securities, cash or other investments for such portion
23 of the Account.” The investor-client also granted “the platform provider with the power and
24 authority to carry out these decisions by giving instructions, on behalf of Client, to brokers and
25 dealers and the qualified custodian(s) of the Account.”

26 65. The Co-Advisory Client Agreements further provided: “Investment advisory fees of
AEWM and [Smith & Cox] are charged based on a percentage of assets under management, billed

1 in arrears (at the end of the billing period) on a monthly basis.... The investment advisory fees will
2 be deducted from the Account and paid directly to AEWM.”

3 66. In February 2017, AE Wealth and Smith & Cox began receiving the investment
4 advisory fees paid by the clients pursuant to the Co-Advisory Client Agreements.

5 67. Between February 1, 2017, and April 30, 2020, approximately 193 clients paid
6 investment advisory fees to AE Wealth and Smith & Cox of at least \$769,761.45. On May 4, 2020,
7 AE Wealth terminated the Co-Advisory Agreement between itself and Smith & Cox.

8 68. As co-investment advisers and an investment advisor representative, AE Wealth,
9 Smith & Cox and Andy Smith were fiduciaries of their clients, and owed them “an affirmative duty
10 of utmost good faith, and full and fair disclosure of all material facts....” *Capital Gains Research*,
11 375 U.S. at 194.

12
13 **E. The 2018 Enforcement Action for Securities Fraud and Investment Advisory**
14 **Fraud, and to Revoke Smith’s and Smith & Cox’s Licenses.**

15 69. On March 30, 2018, the Division filed an enforcement action against Andy Smith,
16 Chris Cox and Smith & Cox (the “2018 Enforcement Action”).

17 70. The 2018 Enforcement Action alleged that Andy Smith and Smith & Cox committed
18 securities fraud and investment advisory fraud in violation of A.R.S. §§ 44-1991 and 44-3241 by
19 failing to disclose to investors the I.R.S.’s 2013 Lien against Smith and by selling U.S. military
20 veterans’ retirement and disability benefits payments to investors despite federal statutes prohibiting
21 assignments of veterans’ retirement and disability payments.

22 71. The 2018 Enforcement Action alleged that Chris Cox should be held liable as a
23 controlling person of Smith & Cox for its securities fraud in violation of A.R.S. § 44-1991.

24 72. The 2018 Enforcement Action requested that the Commission revoke Smith & Cox’s
25 and Andy Smith’s licenses as an investment adviser and investment adviser representative, respectively.
26

1 73. On April 6, 2018, Smith & Cox was served with the Notice of Opportunity for
2 Hearing in the 2018 Enforcement Action. On April 13, 2018, Andy Smith, Chris Cox and Smith &
3 Cox filed a request for a hearing.

4 74. Section 4(f) of the Co-Advisory Agreement required Smith & Cox to “immediately
5 in writing” inform AE Wealth of the 2018 Enforcement Action in April 2018 when Smith & Cox
6 became aware of it. Smith & Cox did not do so.

7 75. Section 4(f) of the Co-Advisory Agreement also required Smith & Cox to
8 immediately inform AE Wealth of the 2016 and 2017 I.R.S. Liens against Smith. Smith & Cox did
9 not do so.

10 76. Smith & Cox materially breached the Co-Advisory Agreement by failing to
11 immediately inform AE Wealth of the 2018 Enforcement Action.

12 77. Smith & Cox also materially breached the Co-Advisory Agreement by failing to
13 immediately inform AE Wealth of the 2016 and 2017 I.R.S. Liens against Smith.

14 78. The 2018 Enforcement Action proceeded to hearing in June 2019. Andy Smith, Chris
15 Cox and Smith & Cox appeared, defended and were represented by their attorney, Mark Chester.
16 The hearing concluded on June 27, 2019.

17 79. The 2018 Enforcement Action remained pending throughout 2019 and the first nine
18 months of 2020 while the parties submitted post-hearing briefs and the Hearing Division prepared a
19 Recommended Order and Opinion, which it did on September 8, 2020.

20 80. Beginning when the 2018 Enforcement Action was filed on March 30, 2018, its
21 existence was a material fact that Respondents had an affirmative duty to disclose to the clients they
22 served as co-investment advisors.

23 81. In addition, Respondents had an affirmative duty to disclose to their investment
24 advisory clients (i) the 2006 Unpaid Judgment against Smith, and (ii) the 2013, 2016 and 2017 I.R.S.
25 Liens against Smith, which were all material facts.

1 82. Respondents did not disclose the existence of the 2018 Enforcement Action, the 2006
2 Unpaid Judgment, or the 2013, 2016 and 2017 I.R.S. Liens to their investment advisory clients.

3
4 F. **Knowing Andy Smith and Smith & Cox May Lose Their Investment Advisory**
5 **Licenses, Andy Smith and Chris Cox Recruit Nate Barnhart and Plan To "Re-**
6 **Brand" from Smith & Cox, LLC to Cornerstone Wealth Management, LLC.**

7 83. In the early to middle part of 2018, Smith approached Barnhart, whom he knew
8 socially, about Barnhart potentially joining Smith & Cox. Smith asked Barnhart if he would be
9 willing to meet and discuss terms, and Barnhart agreed to do so. The two eventually met in the Fall
10 of 2018.

11 84. During their Fall 2018 meeting, Smith said his firm was looking to expand and bring
12 on someone like Barnhart to help service the firm's clients. Smith said that over time, Barnhart
13 would have an ownership interest in the firm. Smith said the firm would rebrand under the name
14 Cornerstone Wealth Management rather than add additional owners' names to the firm name of
15 Smith & Cox.

16 85. Smith told Barnhart that he (Smith) might have to give up his investment advisory
17 license as a result of an investment he previously sold and for which he was being investigated.
18 Smith told Barnhart there was a pending action and Smith was defending himself, but he might have
19 to give up his license.

20 86. Smith told Barnhart the plan was for Barnhart to be the new investment adviser
21 representative for Cornerstone and for Smith to have some other role that did not involve advising
22 clients.

23 87. Smith talked in general terms about a compensation package for Barnhart, which
24 would include a base salary, a bonus, and ownership in Cornerstone down the road. Smith also
25 mentioned that he may move back to Indiana in the future but would retain his share of ownership
26 and control over Cornerstone. Barnhart was interested in Smith's proposal and they agreed to meet
again in 2019 after the 2018 Holidays.

1 88. In early 2019 Barnhart and Smith had another meeting. Barnhart asked Smith to
2 explain the investment that was the subject of the pending action. Smith told Barnhart the investment
3 involved pensions from military veterans.

4 89. According to Barnhart, Smith's explanation was vague and lacked detail, but Smith
5 assured him the matter would have no negative impact on Barnhart if he joined Smith's firm.
6 Barnhart did not inquire further about the 2018 Enforcement Action.

7 90. On April 10, 2019, Barnhart authorized AE Wealth to conduct a background check
8 on him in connection with his potential affiliation with AE Wealth as an investment adviser
9 representative.

10 91. On April 17, 2019, Chris Cox reserved the name "Cornerstone Wealth Management."

11 92. In June 2019, Barnhart met with Smith and Cox to further discuss joining their firm.
12 Smith and Cox made clear to Barnhart that the firm was rebranding to Cornerstone. They discussed
13 that Smith might move back to Indiana but that Smith would retain his ownership in Cornerstone.

14 93. Smith, Cox and Barnhart discussed Barnhart's compensation, which would include a
15 base salary, a bonus and an ownership interest in Cornerstone over time. They also discussed that
16 Smith's clients would be transferred to Barnhart, and Barnhart would become the investment adviser
17 representative for the firm.

18 94. Barnhart agreed that he would join the firm.

19 95. Although Smith, Cox and Barnhart had discussed that Barnhart would become an
20 owner of Cornerstone over time, Barnhart agreed to and did organize Cornerstone on July 3, 2019,
21 as a member-managed limited liability company with himself as the sole member.

22 96. On September 16, 2019, Barnhart signed an AE Wealth Investment Adviser
23 Representative Agreement, which Callanan later signed on October 14, 2019. Under the Investment
24 Adviser Representative Agreement, AE Wealth engaged Barnhart as an IAR and Cornerstone was
25 deemed a "branch office" of AE Wealth.
26

1 97. On September 19, 2019, Barnhart and AE Wealth filed with the Division a Form U4
2 uniform application for Barnhart to become an Arizona-licensed investment adviser representative
3 of AE Wealth. On October 11, 2019, the Division approved Barnhart's application and he became
4 licensed as an IAR through AE Wealth.

5
6 **G. September-October 2019: AE Wealth Learns of the 2018 Enforcement Action.**

7 98. On September 20, 2019, AE Wealth's Chief Compliance Officer at that time, "K.S.",
8 and its General Counsel, "D.W.", had a conference call with Andy Smith, Chris Cox, attorney Mark
9 Chester, and Nate Barnhart. According to a statement K.S. provided to the Division, this call was
10 when AE Wealth first learned of the 2018 Enforcement Action against Smith, Cox and Smith & Cox.
11 According to K.S., Smith, Cox and Attorney Chester provided general information about the 2018
12 Enforcement Action.

13 99. On September 28, 2019, Attorney Chester emailed K.S. a copy of the Notice of
14 Opportunity for Hearing ("Notice") in the 2018 Enforcement Action. The Notice alleged: (i) the
15 existence of the 2013, 2016 and 2017 I.R.S. Liens against Smith; and (ii) Smith and Smith & Cox
16 committed securities fraud and investment advisory fraud. As stated above, the Notice requested the
17 Commission to revoke Smith's and Smith & Cox's investment advisory licenses.

18 100. Thus, as of September 28, 2019, AE Wealth knew that Smith & Cox had withheld
19 and failed to disclose material information that Section 4(f) of the Co-Advisory Agreement required
20 it to "immediately in writing" disclose to AE Wealth, namely: (i) Smith & Cox and Smith were the
21 subject of an investigation and an enforcement action by a state government agency concerning
22 alleged violations of the securities laws; (ii) Smith's and Smith & Cox's investment advisory licenses
23 might be revoked; and (iii) Smith was the subject of three federal tax liens.

24 101. AE Wealth decided it would terminate its Co-Advisory relationship with Smith &
25 Cox, but not for several months so that Nate Barnhart could take over Smith & Cox's book of
26 approximately 193 clients. Transitioning the clients from Andy Smith to Nate Barnhart as their

1 investment adviser representative would enable AE Wealth to keep those clients, whose assets under
2 management totaled at least \$25 million.

3 102. Just as Smith & Cox had withheld and failed to disclose to AE Wealth the I.R.S. Liens
4 and the 2018 Enforcement Action, AE Wealth would withhold and fail to disclose these facts to its
5 joint clients with Smith & Cox.

6 103. On October 23, 2019, Callanan and K.S. had a conference call with Smith, Cox and
7 Barnhart regarding transitioning the clients from Smith to Barnhart as their IAR. The call
8 participants agreed that Smith's and Barnhart's meetings with the clients for the transition were to
9 be completed by February 29, 2020. (AE Wealth subsequently extended that deadline because Smith
10 and Barnhart did not meet it. AE Wealth extended the February 29th deadline to April 15th, then to
11 May 1st, and then to September 1, 2020.).

12 104. According to a confirming email K.S. sent after the October 23rd conference call, AE
13 Wealth imposed the following restrictions and requirements that were to be effective as of March 1,
14 2020:

- 15 a) "Andy Smith will not be involved in the securities side of the business at all."
- 16 b) "Andy will take on a non-sales role and his title will reflect such."
- 17 c) "Andy will have no front office or client interaction with securities clients."
- 18 d) "As is natural, clients may reach out to Andy to ask questions based on their
19 historical relationship. When/if this happens, Andy will refer the client to Nate for advice
20 and servicing. No product discussion will occur."
- 21 e) "Andy will not participate in securities' client meetings after 02.29.2020."
- 22 f) "Andy may be present at company functions where all members of the staff
23 are invited. Ex: barbeques, holiday parties etc. If he is present however, he will not engage
24 in any sales or securities product related conversations. He should not even be present in
25 a conversation where others are discussing securities products, particularly if client *[sic]*
26 or potential clients are present."

105. In order to avoid clients asking questions about Smith's new non-securities role, K.S. wrote that AE Wealth requested that "Andy not be present at any seminars, presentation etc. Even if Andy is not presenting and not meeting with clients, his presence at the event will prompt questions regarding his role so it is in his best interest to not be there." K.S. continued, "Compliance may be present at client events, seminars, presentations."

106. While AE Wealth imposed these requirements on Smith, Cox and Barnhart, it did not require them to disclose to their joint investment advisory clients (i) the three I.R.S. Liens against Smith, (ii) the 2018 Enforcement Action against Smith, Cox and Smith & Cox, or (iii) that Smith and Smith & Cox might have their investment advisory licenses revoked.

H. Late 2019 through September 2020: Respondents Deceive Their Clients Through the Pretense of "Rebranding" Smith & Cox to Cornerstone While Failing to Disclose Numerous Negative Material Facts.

107. Barnhart attended the 2019 Smith & Cox client holiday party where Barnhart was formally introduced to clients. Clients were told that Smith & Cox was "rebranding" and would be known as Cornerstone.

108. In early 2020, Barnhart and Smith began meeting with clients to transition them from Smith to Barnhart as their investment adviser representative.

109. AE Wealth advised Smith and Barnhart to simply tell the clients that Barnhart was becoming their IAR because Smith was transitioning to a new role within the firm. AE Wealth did not tell Smith or Barnhart to inform clients that AE Wealth had directed that Smith "not be involved in the securities side of the business at all," or that AE Wealth was severing its relationship with Smith.

110. Consistent with AE Wealth's direction, Smith and Barnhart told the clients that Barnhart would become their IAR because Smith was taking on a non-IAR role within Cornerstone.

111. Clients were also told: "As you know, Smith & Cox, LLC, has gone through the re-branding process, and we are now Cornerstone Wealth Management, LLC. Our company is growing

1 and [that] is why we have added Nate Barnhart to our team, to help serve you even better. With that,
2 we must change the registration on all our account *[sic]*.” These were misleading half-truths.

3 112. Neither Smith, nor Barnhart nor AE Wealth informed the clients of the real reasons
4 for the “rebranding” and IAR transition to Barnhart, namely: (i) the pending 2018 Enforcement
5 Action alleging securities fraud and investment advisory fraud, (ii) Smith’s 2013, 2016 and 2017
6 I.R.S. Liens; (iii) that Smith and Smith & Cox expected to have their investment advisory licenses
7 revoked; and (iv) that AE Wealth had decided to terminate its Co-Advisory Agreement with Smith
8 & Cox because Smith & Cox had withheld and concealed all this negative material information from
9 AE Wealth.

10 113. Barnhart believes Smith transitioned approximately 250 household investment
11 advisory accounts to him during the first half of 2020.

12 114. As part of the transition, Respondents had the clients sign AE Wealth Managed
13 Account Client Agreements (“Client Agreements”) that assigned Barnhart as the clients’ IAR.

14 115. The provisions in the Client Agreements for buying, selling and holding securities in
15 the clients’ Accounts were substantially the same as the provisions in the Co-Advisory Client
16 Agreements between Smith & Cox, AE Wealth and the clients.

17 116. On Wednesday, April 29, 2020, the Division filed the original Temporary Order to
18 Cease and Desist and Notice of Opportunity for Hearing (“original Notice”) in this action (the “2020
19 Enforcement Action”).

20 117. On Thursday, April 30, 2020, the Division served AE Wealth with the original Notice
21 by delivering it to AE Wealth’s statutory agent in Arizona.

22 118. On Monday, May 4, 2020, AE Wealth emailed a letter to Andy Smith terminating AE
23 Wealth’s Co-Advisory Agreement with Smith & Cox.

24 119. AE Wealth had allowed Smith & Cox to continue to act as its co-investment adviser
25 to their joint clients for more than eight (8) months from September 2019 when AE Wealth learned
26

1 of the 2018 Enforcement Action and Smith's and Cox's dishonesty in failing to "immediately"
2 inform AE Wealth of it as their Co-Advisory Agreement required.

3 120. According to Barnhart, AE Wealth never told him he needed to disclose to clients that
4 he, Cornerstone and AE Wealth are Respondents in the 2020 Enforcement Action, so he did not
5 disclose this fact.

6 121. On May 6, 2020, K.S. wrote in an internal AE Wealth email that the agenda for her
7 upcoming meeting on May 8th with Callanan should include: "Smith & Cox case – Nate Barnhart –
8 discuss separation after we get needed info from him."

9 122. Two weeks later, on May 20, 2020, K.S. informed Cox and Barnhart by phone that
10 AE Wealth was terminating Barnhart effective September 1, 2020. On May 21, 2020, K.S. sent Cox
11 and Barnhart an email confirming AE Wealth's decision to terminate Barnhart, writing, "AEWM
12 will file Nate's U5 on September 1, 2020 and move all clients assigned to Nate to retail accounts."
13 AE Wealth later extended Barnhart's termination date to September 30, 2020.

14 123. Knowing of his impending termination by AE Wealth, Barnhart began looking for
15 another investment advisory firm he could affiliate with as an IAR.

16 124. Barnhart did not inform his clients he would be separating from AE Wealth. He never
17 discussed with them what options they might have if he was unsuccessful in finding another
18 investment advisory firm he could join to which they could move their accounts.

19 125. On September 4, 2020, Barnhart and Ashton Thomas Private Wealth (CRD # 153902)
20 filed with the Division a Form U4 uniform application for Barnhart to become an IAR of that firm.

21 126. In late September 2020, Barnhart's counsel telephoned the Division to inquire
22 regarding the status of Barnhart's IAR application with Ashton Thomas Private Wealth. The
23 Division informed Barnhart's counsel that it would not approve his IAR application because he is a
24 Respondent in this investment advisory fraud enforcement action that seeks to revoke his IAR
25 license.
26

1 127. On September 30, 2020, AE Wealth terminated Barnhart. Pursuant to A.R.S. § 44-
2 3158(B), the termination automatically suspended Barnhart's IAR license.

3 128. Between May 20 and September 30, 2020, neither AE Wealth nor Barnhart informed
4 clients that Barnhart was leaving AE Wealth and the clients would need to find a new investment
5 adviser.

6 129. Instead, in October 2020, clients received a form letter from AE Wealth dated
7 September 30, 2020, stating in part:

8
9 We are writing to notify you Nate Barnhart (Cornerstone Wealth
10 Management LLC) is no longer an Investment Adviser Representative on
11 behalf of AE Wealth Management (RIA). Effective September 1, 2020, Mr.
Barnhart resigned as an Investment Adviser Representative (IAR) with AE
Wealth Management.

12 ...

13 With this change, your client agreement with AE Wealth Management will
no longer be valid.

14 ...

15 During this transition, please contact TD Ameritrade directly for assistance
16 with your accounts(s). You can reach their service helpline at 1-800-431-
17 [REDACTED].

18 As of 12/01/2020, if your account has not moved to a new investment
19 adviser, we will no longer be able to assist you and your account will be
20 changed to a TD Ameritrade retail account.... Unless we receive
21 instructions from the account holder, your account will remain in the current
allocation and current securities during this period. AE Wealth Management
cannot and will not take any direction, directly or indirectly from Mr.
Barnhart.

22 130. The letter was generically signed "AE Wealth Management, LLC Compliance."

23 131. On November 11, 2020, Ashton Thomas Private Wealth filed a request with the
24 Division to terminate Barnhart's Form U4 application to become an IAR of that firm.

IV.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

132. From November 8, 2016, through at least May 4, 2020, Respondents AE Wealth, Smith & Cox, Smith, Cornerstone and Barnhart made, participated in or induced the offer and sale of securities for their investment advisory clients pursuant to the AE Wealth Managed Account Co-Advisory Client Agreements and Managed Account Client Agreements, within or from Arizona. The securities included shares in investment funds such as the Griffin Institutional Access Credit Fund (CRDIX) and the Griffin Institutional Access Real Estate Fund (GRIFX).

133. From November 8, 2016, through at least May 4, 2020, Respondents AE Wealth, Smith & Cox, Smith, Cornerstone and Barnhart made, participated in or induced the unlawful sales or purchases of securities in violation of A.R.S. § 44-1991. Specifically, in connection with the offer or sale of securities within or from Arizona, these Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that are necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operate or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, their failures to disclose:

- a) the 2006 Unpaid Judgment Smith owes an investor in Indiana;
- b) the 2013, 2016 and 2017 I.R.S. Liens against Smith for \$178,275 in unpaid taxes;
- c) the 2018 Enforcement Action for securities fraud, investment advisory fraud, and revocation of Smith's and Smith & Cox, LLC's licenses; and
- d) the 2020 Enforcement Action for securities fraud, investment advisory fraud, and revocation of Barnhart's IAR license.

134. This conduct violates A.R.S. § 44-1991.

V.

CONTROL PERSON LIABILITY PURSUANT TO A.R.S. § 44-1999

135. From at least November 8, 2016, through the present, Cox and Smith have been or held themselves out as the principals and managing members of Smith & Cox, LLC.

136. From at least November 8, 2016, through the present, Cox and Smith directly or indirectly controlled Smith & Cox, LLC within the meaning of A.R.S. § 44-1999. Therefore, Cox and Smith are jointly and severally liable to the same extent as Smith & Cox, LLC for its violations of A.R.S. § 44-1991 from at least November 8, 2016, through the present.

137. Under the Co-Advisory Agreement between AE Wealth and Smith & Cox, LLC from November 8, 2016, through May 4, 2020, AE Wealth directly or indirectly controlled Smith & Cox, LLC within the meaning of A.R.S. § 44-1999. Therefore, AE Wealth is jointly and severally liable to the same extent as Smith & Cox, LLC for its violations of A.R.S. § 44-1991 from November 8, 2016, through May 4, 2020.

138. From at least November 8, 2016, through March 30, 2018, Callanan was the President of AE Wealth. Since March 30, 2018, Callanan has been the Chief Executive Officer of AE Wealth.

139. From at least November 8, 2016, through the present, Callanan directly or indirectly controlled AE Wealth within the meaning of A.R.S. § 44-1999. Therefore, Callanan is jointly and severally liable to the same extent as AE Wealth for its violations of A.R.S. § 44-1991 from at least November 8, 2016, through the present.

140. From July 3, 2019, through at least April 30, 2020, Barnhart, Cox and Smith have been or held themselves out as the principals of Cornerstone.

141. From July 3, 2019, through at least April 30, 2020, Barnhart, Cox and Smith directly or indirectly controlled Cornerstone within the meaning of A.R.S. § 44-1999. Therefore, Barnhart, Cox and Smith are jointly and severally liable to the same extent as Cornerstone for its violations of A.R.S. § 44-1991 from July 3, 2019, through at least April 30, 2020.

VI.

VIOLATION OF A.R.S. § 44-3241

(Fraud in the provision of investment advisory services)

142. Respondents, except for Callanan, in connection with a transaction or transactions within or from Arizona involving the provision of investment advisory services directly or indirectly:

(i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; (iii) misrepresented professional qualifications with the intent that the client rely on the misrepresentation; or (iv) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit.

Respondents' conduct includes, but is not limited to, the following:

a) Respondents failed to disclose to their investment advisory clients:

(i) the 2006 Unpaid Judgment Smith owes an investor in Indiana;

(ii) the 2013, 2016 and 2017 I.R.S. Liens against Smith for \$178,275 in unpaid taxes;

(iii) the 2018 Enforcement Action for securities fraud, investment advisory fraud, and revocation of Smith's and Smith & Cox, LLC's licenses; and

(iv) the 2020 Enforcement Action for securities fraud, investment advisory fraud, and revocation of Barnhart's IAR license.

b) To explain the transition from Smith to Barnhart as the clients' investment adviser representative, Respondents told their clients' misleading half-truths such as "Our company is growing and [that] is why we have added Nate Barnhart to our team, to help serve you even better," while failing to disclose that AE Wealth had decided to terminate its Co-Advisory Agreement with Smith & Cox because Smith & Cox had withheld and concealed negative material information from AE Wealth, including the I.R.S. Liens against Smith and the 2018 Enforcement Action.

143. This conduct violates A.R.S. § 44-3241.

VII.**REMEDIES PURSUANT TO A.R.S. § 44-3201****(Denial, Revocation, or Suspension of Investment Adviser Representative License)**

144. Respondent Barnhart's conduct is grounds to revoke his existing but suspended investment adviser representative license with the Commission and to deny his IAR application through Ashton Thomas Private Wealth pursuant to A.R.S. § 44-3201. Specifically, revocation of Barnhart's license and denial of his application would be in the public interest, and (i) Barnhart has committed investment advisory fraud in violation of A.R.S. § 44-3241, and (ii) Barnhart is not employed by a licensed or federal covered adviser. These are grounds for the Commission to deny Barnhart's application pursuant to A.R.S. §§ 44-3201(A)(3) and 44-3201(A)(7).

VIII.**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act and the IM Act, pursuant to A.R.S. §§ 44-2032 and 44-3292;
2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. §§ 44-2032 and 44-3292;
3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order Respondents to pay the state of Arizona administrative penalties of up to one thousand dollars (\$1,000) for each violation of the IM Act, pursuant to A.R.S. § 44-3296;
5. Order the revocation of Respondent Nate Barnhart's investment adviser representative license and the denial of his application pursuant to A.R.S. § 44-3201;
6. Order that Respondents and Respondent Spouses be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action; and

7. Order any other relief that the Commission deems appropriate.

IX.

HEARING OPPORTUNITY

Each Respondent, including Respondent Spouses, may request a hearing pursuant to A.R.S. § 44-1972, 44-3212 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must also answer this Amended Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Amended Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's website at <http://www.azcc.gov/hearing>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Amended Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail cdbuck@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation. Additional information about the administrative action procedure may be found at <http://www.azcc.gov/securities/enforcement/procedure>.

X.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must deliver or mail an Answer to this Amended Notice of

1 Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington,
2 Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Amended Notice.
3 Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
4 Commission's Internet web site at <http://www.azcc.gov/hearing>.

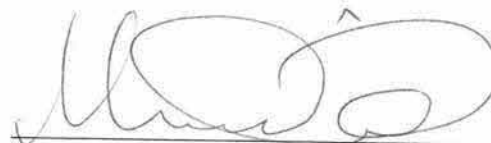
5 Additionally, the answering respondent must serve the Answer upon the Division. Pursuant
6 to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
7 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
8 addressed to James D. Burgess.

9 The Answer shall contain an admission or denial of each allegation in this Amended Notice
10 and the original signature of the answering respondent or respondent's attorney. A statement of a
11 lack of sufficient knowledge or information shall be considered a denial of an allegation. An
12 allegation not denied shall be considered admitted.

13 When the answering respondent intends in good faith to deny only a part or a qualification of
14 an allegation, the respondent shall specify that part or qualification of the allegation and shall admit
15 the remainder. Respondent waives any affirmative defense not raised in the Answer.

16 The officer presiding over the hearing may grant relief from the requirement to file an Answer
17 for good cause shown.

18 Dated this 24th day of February, 2021.

19
20 

21 Mark Dinell
22 Director of Securities
23
24
25
26